

### **REMARKS**

Applicants appreciate the teleconference between the Examiner and the Applicants' representative on November 22, 2010. Applicants appreciate the Office's acknowledgement that claims reciting amino acid sequences of SEQ ID NOS: 1, 3, and 5 (or the corresponding nucleotide sequences SEQ ID NOS: 2, 4, and 6 that encode the amino acid sequences) would be found allowable.

Entry of this Amendment is proper under 37 C.F.R. § 1.116, because the Amendment places the application in condition for allowance for the reasons discussed herein; does not raise any new issue requiring further search and/or consideration, because the amendments amplify issues previously discussed throughout prosecution; no new claims are added; and places the application in better form for an appeal should an appeal be necessary. The Amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the Amendment, reexamination, and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.116, are thus respectfully requested.

#### **1. Status of the Claims**

The status of the claims following entry of the amendment is as follows:<sup>1</sup>

<b>Claims canceled:</b>	2-6, 8, 10, 14, and 18-20
<b>Claims pending:</b>	1, 7, 9, 11-13, 15-17, and 21-22
<b>Claims rejected:</b>	1, 6-13, and 15-22
<b>Claims amended:</b>	1, 7, 9, 11-13, and 21

#### **2. Support for the Amendments**

Support for the amendments of claims can be found at least from original claims 5-6, 8, 10, and 14 (now canceled). Accordingly, Applicants do not believe that any prohibited new matter is being introduced by the entry of the amendments.

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<sup>1</sup> The Advisory Action mailed October 27, 2010 indicates that the Amendment / Response filed October 15, 2010 is not entered. Accordingly, the present amendment starts from the Amendment / Response filed April 9, 2010, which has been entered.

The claims have been amended without prejudice to, or disclaimer of, the canceled subject matter. Applicants reserve the right to file a continuation or divisional application on any subject matter canceled by way of amendment.

**3. Information Disclosure Statement**

Applicants appreciate the Office's acknowledgement of the Information Disclosure Statement filed October 15, 2010. Applicants note that the Office does not initial the Japanese Office Action (with English translation) cited in the PTO-1449 form. Applicants respectfully request that the Office initials the Japanese Office action and returns the PTO-1449 form with the Office's next communication.

**4. Allowable Subject Matter**

Applicants appreciate the Office's acknowledgement that nucleic acid sequences encoding the proteins comprising the amino acid sequences of SEQ ID NOS: 1, 3, and 5 are free of prior art. Office Action, page 6; *see also* Advisory Action mailed October 27, page 2.

**5. Withdrawn Objections and Rejections**

Rejections and objections not reiterated stand withdrawn. *See* 37 C.F.R. § 1.113(b); M.P.E.P. §§ 706.07 and 707.07(e).

**6. Rejection Under 35 U.S.C. § 102(b)**

The Office maintains the rejection of claims 1, 6-13, and 15-22 under 35 U.S.C. § 102(b) as allegedly anticipated by Mukerji et al., WO 99/64616 ("Mukerji").

Mukerji allegedly discloses the following:

- 1) arachidonic-containing plants are generated by transforming plants with genes from *Mortierella alpina*,
- 2) the genes are present in recombinant expression vectors;
- 3) the genes may include  $\Delta 5$  desaturase, fatty-acid-chain elongase, and  $\Delta 6$  desaturase;